



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2010 REGULAR SESSION

SENATE BILL NO. 117

CORRECTED

THURSDAY, FEBRUARY 18, 2010

The following bill was reported to the House from the Senate and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adles

AN ACT relating to financial services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔ Section 1. KRS 286.2-685 is amended to read as follows:

(1) No person may use the term "bank," "banker," "banking," "trust," or a similar term or a character, ideogram, phonogram, phrase, or foreign language word in its name, stationery, or advertising in a manner that would imply to the public that the person is engaged in the banking or trust business.

(2) Subsection (1) of this section does not apply to a depository institution or other entity organized under the laws of this state, another state, or the United States to the extent that the depository institution or other entity is:

(a) Authorized under its charter or the laws of this state or the United States to use a term, word, character, ideogram, phonogram, or phrase prohibited by subsection (1) of this section; and

(b) Authorized by the laws of this state or the United States to conduct the activities in which it is engaged in this state.

(3) For purposes of this section, unless the context requires otherwise, "financial institution" means any person or entity operating in the Commonwealth of Kentucky, as permitted under the laws of this state, any other state, or the United States, as a bank, bank holding company, credit union, savings and loan association, or any wholly owned subsidiary thereof.

~~(4)(2)~~ Except as provided in subsection ~~(5)(3)~~ of this section, no person that is not a financial institution may use the trade name, trademark, service mark, logo, or symbol, or any combination thereof, of any financial institution, or any trade name, trademark, service mark, logo, or symbol, or any combination thereof, that is similar to the trade name, trademark, service mark, logo, or symbol of such a financial institution, in any marketing material, solicitation, or advertising provided or directed to another person in a manner such that a reasonable person may be

1 confused, mistaken, or deceived that the marketing material, solicitation, or
 2 advertising originated from, is endorsed by, or has been consented to by the
 3 financial institution.

4 ~~(5)(3)}~~ Subsection ~~(4)(2)}~~ of this section shall not apply to a person who uses the
 5 trade name, trademark, service mark, logo, or symbol of a financial institution with
 6 the written consent of the financial institution.

7 ~~(6)(4)}~~ The financial institution whose trade name, trademark, service mark, logo, or
 8 symbol has been used in violation of this section may institute an action in the
 9 Franklin Circuit Court or any court of competent jurisdiction against any person or
 10 entity in violation of subsection ~~(4)(2)}~~ of this section to enjoin a continuance of
 11 any activity in violation of subsection ~~(4)(2)}~~ of this section and, if injured thereby,
 12 for the recovery of damages at three (3) times the amount of any actual damages
 13 sustained and for civil penalties in the amount of one thousand dollars (\$1,000). It
 14 shall not be necessary that actual damages be alleged or proved in order to recover
 15 injunctive relief or civil penalties. The penalties prescribed by this subsection shall
 16 be cumulative.

17 ➔SECTION 2. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 286 IS
 18 CREATED TO READ AS FOLLOWS:

19 **(1) The executive director shall approve an application for a bank or trust company**
 20 **charter upon a finding that the public convenience and advantage will be served**
 21 **by opening of the proposed institution. To determine whether public convenience**
 22 **and advantage will be served, the executive director shall consider the following**
 23 **factors:**

24 **(a) Whether conditions in the community indicate reasonable assurance of**
 25 **successful operation for the proposed institution;**

26 **(b) Whether the organizational and capital structure and amount of**
 27 **capitalization is adequate for the business plan; and**

(c) Whether the officers and directors have sufficient experience, ability, standing, and reputation to provide reasonable assurance of successful operation and of compliance with the law.

(2) Before any institution shall commence business it shall obtain from the executive director a charter authorizing it to commence doing business and shall comply with the following requirements:

(a) The oaths of all directors have been taken;

(b) The executive director has received satisfactory proof that the accounts of the banking institution's depositors will be insured by the Federal Deposit Insurance Corporation; and

(c) The executive director has received satisfactory proof that the institution has subscribed and paid in the required capital and has otherwise fully complied with all pertinent laws and administrative regulations.

➔SECTION 3. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

An institution shall not transact any business, except business which is incidental or preliminarily necessary to its organization, until it has been issued a charter under Section 2 of this Act.

➔Section 4. KRS 286.3-030 is amended to read as follows:

- (1) As used in this section, "person" includes a natural person, partnership, corporation, association, business trust, voting trust, or similar organization.
- (2) No persons, except corporations, shall engage in the business of private banking in this state.
- (3) No bank incorporated under the laws of another state or national bank having its principal place of business outside this state shall transact any banking business in this state except to lend money, unless specifically authorized by law or administrative regulation, or except as permitted following a merger transaction

1 within the meaning of Section 44 of the Federal Deposit Insurance Act pursuant to
 2 12 U.S.C. secs. 1811 et seq., approved after June 1, 1997.

3 (4) Kentucky chartered banks, or their subsidiaries, are specifically authorized to
 4 engage in the sale of insurance.

5 (5) No bank incorporated under the laws of the Commonwealth of Kentucky shall make
 6 any loan or discount on the security of the shares of its own capital stock, or the
 7 shares of stock of a bank holding company which controls the bank to the extent
 8 that such loan or discount secured by such shares exceeds the amounts permitted by
 9 Section 23(A) of the Federal Reserve Act (12 U.S.C. sec. 371c) as that section reads
 10 on July 15, 1986, nor be the purchaser or holder of any such shares, except that a
 11 bank may take property of any kind to satisfy or protect a loan previously made in
 12 good faith and in the ordinary course of business; and stock so purchased or
 13 acquired, shall, within six (6) months from the time of its purchase or acquisition,
 14 be sold or disposed of at public or private sale. This subsection shall not affect or
 15 modify in any way KRS 386.025, but said section shall remain in full force and
 16 effect.

17 (6) Except as permitted by the executive director, any state or national bank with
 18 branch offices in Kentucky shall use at all times the same name for all its branch
 19 offices in Kentucky. The executive director shall permit the limited use of a
 20 different name at one (1) or more branch offices, upon written request by a state
 21 or national bank with branch offices in Kentucky, when necessary to avoid
 22 customer confusion.

23 ➔Section 5. KRS 286.3-040 is amended to read as follows:

24 (1) Any five (5) or more natural persons may organize a banking corporation.

25 (2) Any five (5) or more natural persons may organize a corporation for the purpose of
 26 conducting a trust business.

27 (3) Any five (5) or more natural persons may organize a corporation for the purpose of

1 conducting a combined banking and trust business.

2 (4) The board of directors of a banking corporation, trust corporation, or combined
3 bank and trust corporation shall be no less than the required number of organizers.

4 ➔Section 6. KRS 286.3-050 is amended to read as follows:

5 (1) Before filing the articles of incorporation of any financial institution mentioned in
6 KRS 286.3-040, the organizers shall present a copy of their proposed articles to the
7 executive director for approval~~[who shall investigate the financial standing, moral~~
8 ~~character, and capability of each of the organizers and proposed executive officers~~
9 ~~and directors, if known, and determine whether there is reasonable assurance of~~
10 ~~sufficient volume of business for the proposed corporation to be successful, and~~
11 ~~whether the public convenience and advantage will be promoted by the opening of~~
12 ~~the proposed corporation].~~

13 (2) In the event that the institution for which a charter is sought is to be created solely
14 for the purpose of effectuating a merger or consolidation to facilitate the formation
15 of a bank holding company, the executive director may waive all or any part of the
16 requirements of this subtitle.

17 (3) If the executive director determines that it is expedient and desirable to permit the
18 proposed corporation to engage in business, he shall approve the articles of
19 incorporation in writing, and the articles then may be filed and recorded as provided
20 in the general corporation or limited liability company law.

21 (4) All amendments to the articles of incorporation of any financial institution
22 mentioned in KRS 286.3-040 shall be approved by the executive director before
23 filing with the Secretary of State.

24 ➔Section 7. KRS 286.3-060 is amended to read as follows:

25 (1) Before any financial institution mentioned in KRS 286.3-040 may transact any
26 banking or trust business, each director of the institution shall take an oath
27 which~~[it shall file a written oath with the executive director. The oath shall be taken~~

1 ~~by each director of the institution, and]~~ shall state in substance:

2 (a) That such director is a citizen of the United States, and the State of Kentucky,
3 or, if not, the place of his residence;

4 (b) That he will faithfully discharge the duties of his office and administer the
5 affairs of the institution, so far as the duties of his office require;

6 (c) That he will uphold the laws of the state, and particularly the banking and
7 trust laws.

8 (2) The oath shall be taken before any officer authorized to administer oaths, and shall
9 be forwarded to the executive director for filing~~[taken upon the election of any~~
10 ~~subsequent director or reelection of any director. The oath shall be maintained by~~
11 ~~the bank and be subject to review at examinations].~~

12 (3) Upon the election of any subsequent director, or reelection of any director, the
13 oath shall be taken and shall be maintained by the bank and be subject to review
14 at examination~~[The executive director shall issue to the institution a certificate~~
15 ~~entitling it to transact the business for which it was organized after the following~~
16 ~~requirements have been met:~~

17 (a) ~~The oath mentioned in subsections (1) and (2) of this section has been filed;~~
18 ~~and~~

19 (b) ~~The executive director has received satisfactory proof that the accounts of the~~
20 ~~banking institution's depositors will be insured by the Federal Deposit~~
21 ~~Insurance Corporation; and~~

22 (c) ~~The executive director has received satisfactory proof that the institution has~~
23 ~~subscribed and paid in the required capital and has otherwise fully complied~~
24 ~~with all pertinent laws and regulations; and~~

25 (d) ~~A period of thirty (30) days has elapsed since the rendition by the executive~~
26 ~~director of a final order, as defined in KRS 13B.010, and an appeal to the~~
27 ~~appropriate court has not been taken from such order.~~

1 ~~(e) If an appeal from a final order of the executive director has been timely filed,~~
 2 ~~no certificate shall be issued until all the requirements of paragraphs (a) to (c)~~
 3 ~~of this subsection have been met and until:~~

4 ~~1. The appeal has been finally disposed of by the last possible court of~~
 5 ~~review, including the United States Supreme Court; or~~

6 ~~2. All further opportunities for appeal have expired as a result of the failure~~
 7 ~~to timely file an appeal].~~

8 ➔ Section 8. KRS 286.3-070 is amended to read as follows:

9 The minimum capital stock of any *newly chartered* bank or trust company {organized
 10 after May 30, 1938 } shall be *five million dollars (\$5,000,000)* ~~[two million five hundred~~
 11 ~~thousand dollars (\$2,500,000)]~~. Additional capital may be required depending upon an
 12 investigation of the application, at the discretion of the executive director.

13 ➔ Section 9. KRS 286.3-090 is amended to read as follows:

14 No reduction in the capital stock of a bank or trust company shall be made to an amount
 15 less than *was* ~~[is]~~ required for organization, nor shall any reduction be valid until it has
 16 been approved by the executive director upon his finding that the interest of creditors of
 17 the bank or trust company will not be prejudiced thereby. *In no event, however, shall the*
 18 *capital stock be less than two million five hundred thousand dollars (\$2,500,000).*

19 ➔ Section 10. KRS 286.3-100 is amended to read as follows:

20 A bank may:

21 (1) Hold personal property that has been transferred to it as collateral for the payment
 22 of any debt;

23 (2) Acquire and hold title to real estate, provided:

24 (a) The real estate is necessary or appropriate for the transaction of legitimate
 25 business; and

26 (b) The cost of the real estate, including furniture and fixtures, shall not exceed
 27 forty percent (40%) of the total paid-in capital, unimpaired surplus and

1 undivided profits (determined on accrual basis). The investment may exceed
 2 the bank's forty percent (40%) limit with prior written approval of the
 3 executive director;

4 (3) Acquire and hold for not longer than ten (10) years, any real estate conveyed to it in
 5 satisfaction of debts previously contracted in the course of its business, or that it
 6 may purchase under a judgment in its favor. A bank acquiring real estate in
 7 satisfaction of debts previously contracted in the course of business shall write
 8 down the acquisition at ten percent (10%) per year;

9 (4) Invest in the bonds of any federal home loan bank;

10 (5) Invest in obligations issued separately or collectively by or for federal land banks,
 11 federal intermediate credit banks and banks for cooperatives under the Act of
 12 Congress known as the Farm Credit Act of 1971, 85 Stat. 583, 12 U.S.C. sec. 2001
 13 and amendments thereto;

14 (6) Invest, subject to the approval of the executive director, in the capital stock or bonds
 15 or both of any domestic realty corporation organized or existing for the sole purpose
 16 of acquiring and holding title to real property used by the bank, through lease or
 17 otherwise, for the transaction of the bank's legitimate business;

18 (7) Purchase, hold, and convey the shares of any open end registered investment
 19 company registered under the Investment Company Act of 1940, or a series of the
 20 company, whose shares are registered under the Securities Act of 1933 and whose
 21 investments are limited to:

22 (a) Bonds or other interest-bearing obligations of the United States, or those for
 23 the payment of the principal and interest on which the faith and credit of the
 24 United States is pledged;

25 (b) Stocks, bonds, or other interest-bearing or dividend-yielding obligations
 26 issued or guaranteed as to the payment of principal and interest or dividend by
 27 any instrumentality presently or hereafter incorporated by authority of an Act

1 of Congress;

2 (c) General obligation bonds or revenue bonds issued and guaranteed as to
3 payment of principal and interest by any state, county, or municipal
4 governments legally authorized to issue these instruments of indebtedness;

5 (d) Any other obligations in which national banking associations organized under
6 the laws of the United States are permitted to invest in directly;

7 (8) Purchase and hold shares of a bank service corporation as that term is used in the
8 Bank Service Corporation Act (12 U.S.C. sec. 1861) and any amendments thereto;

9 (9) Invest in:

10 (a) Bonds or other interest-bearing obligations of the United States, or those for
11 the payment of the principal and interest on which the faith and credit of the
12 United States is pledged;

13 (b) Stocks, bonds, or other interest-bearing or dividend-yielding obligations
14 issued or guaranteed as to the payment of principal and interest or dividend by
15 any instrumentality presently or hereafter incorporated by authority of an Act
16 of Congress;

17 (c) General obligation bonds or revenue bonds issued and guaranteed as to
18 payment of principal and interest by any state, county, or municipal
19 governments legally authorized to issue such instruments of indebtedness;

20 (10) (a) Invest in other real estate in the bank's generally accepted banking market. For
21 purposes of this section, "the bank's generally accepted banking market"
22 means the geographic banking market at the time the investment is made as
23 defined by the Federal Reserve Bank in the Federal Reserve District in which
24 the bank is located. The investment shall not exceed ten percent (10%) of the
25 bank's actual paid-in capital and surplus, calculated at the time the investment
26 is made, for each real estate investment; and

27 (b) Investment in other real estate not to exceed ten percent (10%) of the bank's

1 actual paid-in capital and surplus, calculated at the time the investment is
 2 made, for each real estate investment, if the bank has acquired the real estate
 3 in satisfaction of a debt previously contracted and the investment is for the
 4 purpose of improving the real estate for sale. Any real estate acquired in
 5 satisfaction of a debt previously contracted and improved by the bank shall be
 6 disposed of within five (5) years of the date of acquisition, with the executive
 7 director authorized to extend the disposition upon written request of the bank
 8 for good cause shown on a year-to-year basis not exceeding an additional five
 9 (5) years;

10 (11) Own or operate a discount brokerage service either through the bank or a bona fide
 11 subsidiary of the bank;

12 (12) Own or operate a travel agency either through the bank or a bona fide subsidiary of
 13 the bank;

14 (13) Invest, with the prior approval of the executive director, in the capital stock or
 15 bonds of a trust company; and

16 (14) Own or operate a courier service, either through the bank or a bona fide subsidiary
 17 of the bank, in any county where the bank has its principal office or a branch.

18 **(15) Except for real estate provided in subsection (3) of this section, acquire and hold**
 19 **for not more than one (1) year, or for an additional period allowed in writing by**
 20 **the executive director, any assets taken as security for debts previously contracted**
 21 **in the ordinary course of business.**

22 Investments in accordance with subsections (7) and (9) of this section are subject to KRS
 23 286.3-280 and 286.3-290. For purposes of computing the maximum investment of a bank
 24 in bonds, notes, and other investments, book value shall be used. For deep discount bonds
 25 or zero coupon bonds, accreted book value shall be used.

26 ➔Section 11. KRS 286.3-102 is amended to read as follows:

27 (1) As used in this section, a **CAMELS**~~[CAMEL]~~ rating means a system of rating used

1 by examiners of financial institutions to rate the institutions in six (6)~~five (5)~~
 2 categories: capital adequacy, asset quality, management effectiveness, quantity and
 3 quality of earnings,~~and~~ liquidity, and sensitivity to market risk.

4 (2) In addition to all other banking activities permitted by this subtitle, a state bank
 5 receiving a CAMELS~~CAMEL~~ rating of 1 or 2 at its most recent state or federal
 6 bank regulatory examination may engage in any banking activity in which the bank
 7 could engage and is exempted from any statutes or administrative regulations which
 8 would be preempted if:

9 (a) It was operating as a national bank in Kentucky;

10 (b) It was operating as a state bank, state thrift, or state savings bank in any state;
 11 or

12 (c) It meets the qualified thrift lender test as determined by the Office of Thrift
 13 Supervision or its successor, or was operating as a federally chartered thrift or
 14 federal savings bank in any state.

15 (3) Before a state bank may engage in any of the banking activities permitted by
 16 subsection (2) of this section, the state bank shall obtain a legal opinion specifying
 17 the statutory or regulatory provisions that permit the activity in which the state bank
 18 intends to engage and the conditions under which such activity is allowed. This
 19 legal opinion shall be maintained by the bank and provided to the office upon
 20 request.

21 (4) This section shall not apply to exempt any laws which regulate Kentucky state
 22 banks pertaining to deferred deposit transactions in Subtitle 9 of this chapter, title
 23 pledge lending in Subtitle 10 of this chapter, visitorial or examination powers, and
 24 interest rates.

25 ➔Section 12. KRS 286.3-172 is amended to read as follows:

26 (1) A national banking association may convert into or merge with a state bank under a
 27 state charter, provided that the action taken complies with federal law.

1 (2) In the case of each conversion, a written plan of conversion shall be submitted, in
 2 duplicate, to the executive director. Such plan shall be in form satisfactory to the
 3 executive director, shall prescribe the terms and conditions of the conversion and
 4 the mode of carrying it into effect, and shall have annexed thereto and forming a
 5 part thereof the proposed articles of incorporation of the state bank which is to
 6 result from the conversion. Such articles of incorporation shall be in the form
 7 prescribed by law for the organization of state banks, with such variations, if any, as
 8 shall be satisfactory to the executive director. With such plan of conversion there
 9 shall be submitted, in duplicate, to the executive director a certificate of the
 10 president, secretary, or cashier of the national banking association certifying that all
 11 steps have been taken which are necessary under federal law to the consummation
 12 of the conversion. The executive director shall approve or disapprove such plan of
 13 conversion within sixty (60) days of the submission thereof to him. In considering
 14 the approval or disapproval of the conversion plan the executive director shall take
 15 into account:

- 16 (a) Any pending administrative or judicial action to which the bank or any officer
 17 or director of the bank is a party;
- 18 (b) The performance of the converting national bank for the five (5) years
 19 preceding the application for conversion as compared to similarly situated
 20 state-chartered banks; and
- 21 (c) The proposed name of the bank after conversion which shall not be the same
 22 as or deceptively similar to any existing state-chartered bank.

23 If the executive director shall approve such plan, he shall file one (1) duplicate
 24 thereof, together with one (1) duplicate of such certificate submitted therewith and
 25 the original of the approval of the executive director, in the office of the executive
 26 director~~[-, and the other duplicate of such plan, together with a duplicate of such~~
 27 ~~certificate and a duplicate of the executive director's approval, shall be filed in the~~

1 ~~office of the clerk of the county in which the principal office of the state bank is to~~
 2 ~~be located~~]. After such filing in the office of the commission, the conversion shall
 3 become effective upon the filing and recording of the articles of incorporation as
 4 provided in KRS 286.3-050, unless a later date is specified in the plan, in which
 5 event the conversion shall become effective upon such later date. If the executive
 6 director shall disapprove the conversion plan, he shall state his reasons for such
 7 disapproval in writing to which the converting national bank shall have the right of
 8 appeal as permitted by law.

9 (3) In the case of each merger, a written plan of merger shall be submitted, in duplicate,
 10 to the executive director. Such plan shall be in form satisfactory to the executive
 11 director and shall prescribe the terms and conditions of the merger and the mode of
 12 carrying it into effect. Such plan may provide the name to be borne by the state
 13 bank, as receiving corporation, if such name is to be changed. Such plan may also
 14 name the persons who shall constitute the first board of directors of the state bank
 15 after the merger shall have been accomplished, provided that the number and
 16 qualifications of such person shall be in accordance with the provisions of Subtitle 3
 17 of KRS Chapter 286 relating to the number and qualifications of directors of a state
 18 bank; or such plan may provide for a meeting of the stockholders to elect a board of
 19 directors within sixty (60) days after such merger, and may make provision for
 20 conducting the affairs of the state bank meanwhile. With such plan of merger there
 21 shall be submitted, in duplicate, to the executive director the following:

22 (a) By the national banking association, a certificate of the president, secretary, or
 23 cashier of such association certifying that all steps have been taken which are
 24 necessary under federal law to the consummation of their merger;

25 (b) By the state bank, a certificate of the president, secretary, or cashier certifying
 26 that such plan of merger has been approved by the board of directors of the
 27 state bank by a majority vote of all the members thereof, that such plan has

1 been submitted to the stockholders of the state bank at a meeting thereof held;
 2 upon notice of at least fifteen (15) days, specifying the time and place and
 3 object of such meeting and addressed to each stockholder at the address
 4 appearing upon the books of the state bank and published pursuant to KRS
 5 Chapter 424, and that such plan of merger has been approved at such meeting
 6 by the vote of the stockholders owning at least two-thirds (2/3) in amount of
 7 the stock of the state bank.

8 (4) The executive director shall approve or disapprove such plan of merger within sixty
 9 (60) days of such submission thereof to him. If the executive director shall approve
 10 such plan, he shall file one (1) duplicate thereof, together with one (1) duplicate of
 11 each of such certificates and the original of the approval of the executive director, in
 12 the office of the executive director~~], and the other duplicate of such plan, together~~
 13 ~~with a duplicate of each of such certificates and a duplicate of the executive~~
 14 ~~director's approval, shall be filed in the office of the clerk of the county in which the~~
 15 ~~principal office of the state bank is to be located].~~ Upon such filing in the office of
 16 the executive director, the merger shall become effective, unless a later date is
 17 specified in the plan, in which event the merger shall become effective upon such
 18 later date.

19 (5) At the time when such conversion or merger becomes effective:

20 (a) The resulting state bank shall be considered the same business and corporate
 21 entity as the national banking association, although as to rights, powers, and
 22 duties, the resulting bank is a state bank;

23 (b) All of the property, rights, and powers and franchises of the national banking
 24 association shall vest in the resulting state bank and the resulting state bank
 25 shall be subject to and deemed to have assumed all of the debts, liabilities,
 26 obligations, and duties of the national banking association and to have
 27 succeeded to all of its relationships, fiduciary or otherwise, as fully and to the

1 same extent as if such property, rights, powers, franchises, debts, liabilities,
 2 obligations, duties, and relationships had been originally acquired, incurred, or
 3 entered into by the resulting state bank; provided, however, that the resulting
 4 state bank shall not, through such conversion or merger, acquire power to
 5 engage in any business or to exercise any right, privilege, or franchise which is
 6 not conferred by the provisions of Subtitle 3 of KRS Chapter 286 upon such
 7 resulting state bank;

8 (c) Any reference to the national banking association in any contract, will, or
 9 document, whether executed or taking effect before or after the conversion or
 10 merger, shall be considered a reference to the resulting state bank if not
 11 inconsistent with the other provisions of the contract, will, or document;

12 (d) A pending action or other judicial proceeding to which the national banking
 13 association is a party, shall not be deemed to have abated or to have
 14 discontinued by reason of the conversion or merger, but may be prosecuted to
 15 final judgment, order, or decree in the same manner as if the conversion or
 16 merger had not been made; or the resulting state bank may be substituted as a
 17 party to such action or proceeding, and any judgment, order, or decree may be
 18 rendered for or against it that might have been rendered for or against the
 19 national banking association if the conversion or merger had not occurred.

20 ➔Section 13. KRS 286.3-180 is amended to read as follows:

21 (1) Banks authorized under the laws of this state may, except as provided in subsections
 22 (2) or (3) of this section, exercise, only at their principal office, powers necessary to
 23 carry on the business of banking by discounting and negotiating notes, drafts, bills
 24 of exchange, and other evidences of debt, and by purchasing bonds, receiving
 25 deposits and allowing interest on these items, buying and selling exchange, coin,
 26 and bullion, and lending money on personal or real security.

27 (2) A bank may establish or acquire within any state, the District of Columbia, or a

territory of the United States a branch and may exercise all of the powers conferred in subsection (1) of this section at the branch. A bank, except for a bank that the executive director may designate by the promulgation of administrative regulations, shall apply to the executive director for permission to establish or acquire a branch. Before the executive director shall approve or disapprove any application made under this subsection the executive director shall ascertain and determine that the public convenience and advantage will be served and promoted and that there is reasonable probability of the successful operation of the branch based upon the financial and managerial impact of the branch on the bank establishing or acquiring the branch. The following conditions shall apply to applications for branches:

(a) The permission to open a branch shall lapse one (1) year after the executive director has rendered a final order as defined in KRS 13B.010, unless it shall have been opened and business actually begun in good faith. If, for reasons beyond the control of the applicant, the branch is not opened within this time period, permission to open the branch may, with the approval of the executive director, be extended for any period of time the executive director deems to be necessary; and

(b) An application to establish or acquire a branch office shall be approved or disapproved by the executive director based upon the facts existing at the date of filing of the application, except for the financial condition of the bank proposing to establish a branch office, which condition shall be subject to review until an order ruling on the application is made.

(3) Any corporation which on January 1, 1966, was engaged in operating ~~a[n agency or]~~ branch bank may continue to retain and operate the ~~[agency or]~~ branch bank under the general banking laws, and the requirements set forth in this section in respect to capital shall not apply to any existing ~~[agency or]~~ branch bank but only as to those ~~[agencies or]~~ branch banks which may be established in the future in

1 accordance with the terms of this section.

2 (4) The provisions of this section shall not be construed to prohibit the merger of banks
3 in the same county and the operation by the merged corporation of the banks, nor to
4 prohibit the sale of any bank to, and the purchase by, any other bank in the same
5 county and the operation of the bank by the purchasing bank as a branch, provided
6 the executive director shall determine that the public convenience and necessity will
7 be served by the operation. The bank which does not survive the merger shall
8 surrender its charter.

9 (5) Any national banking association or any state bank member of the Federal Reserve
10 system whose principal office is located in this state may do all things and perform
11 all acts which state banks are permitted to do or perform under this section, subject
12 to the conditions and restrictions provided for banks as to exercise of these powers.

13 (6) When a branch ~~{or agency}~~ bank has once been established any operation of the
14 branch~~{or agency}~~ bank shall not be discontinued, and the branch~~{or agency}~~ bank
15 shall not be closed until after ninety (90) days' notice in writing to the executive
16 director. In the discretion of the executive director the branch~~{or agency}~~ bank
17 proposing to discontinue operation may be required to give notice of the date when
18 its operation will cease. **The consolidation of two (2) or more branches into a**
19 **single location in the same vicinity or immediate neighborhood shall not be**
20 **considered a branch closure subject to the provisions of this subsection.**

21 ➔Section 14. KRS 286.3-185 is amended to read as follows:

22 A bank may move its principal office or a branch from one (1) location to another. A
23 bank, except for a bank that the executive director may designate through the
24 promulgation of administrative regulations, shall apply to the executive director for
25 approval to relocate its principal office or a branch. Before the executive director shall
26 approve or disapprove any change of location, he shall ascertain and determine that the
27 public convenience and advantage will be served and promoted and that there is a

1 reasonable probability of the successful operation of the branch or principal office at the
 2 new location. **The relocation of a branch within the same vicinity or immediate**
 3 **neighborhood that does not substantially affect the nature of the business or customers**
 4 **served shall not be considered a branch closure subject to the provisions of subsection**
 5 **(6) of Section 13 of this Act.**

6 ➔Section 15. KRS 286.3-280 is amended to read as follows:

- 7 (1) Except as provided in subsection (2) of this section, no bank or trust company shall
 8 permit any person to become indebted to it or to become obligated as guarantor or
 9 surety to it in an amount exceeding twenty per cent (20%) of its capital stock
 10 actually paid in and its actual amount of surplus, unless the person pledges with it
 11 good collateral security or executes to it a mortgage upon real or personal property
 12 which at the time is of more than the cash value of the indebtedness or obligation
 13 above all other encumbrances; but the indebtedness or obligation of any person
 14 shall not exceed thirty percent (30%) of the paid-in capital and actual surplus of the
 15 bank or trust company. **When computing the total capital stock and surplus, the**
 16 **negative balance of a bank's undivided profits account shall be deducted.**
- 17 (2) A bank organized as a limited liability company shall not be covered by subsection
 18 (1) of this section, but shall comply with the legal lending limits applicable to
 19 national banks set forth in 12 U.S.C. sec. 84 and 12 C.F.R. sec. 32.4, as may be
 20 amended.
- 21 (3) No bank or trust company shall permit any of its directors or executive officers to
 22 become indebted to it or become obligated as guarantor or surety to it in an amount
 23 which exceeds that which any other person is authorized by this section to become
 24 indebted or obligated.
- 25 (4) In computing the indebtedness of any person, the liability of any partnership in
 26 which the person acts as a general partner shall be included, and any obligation
 27 entered into for the benefit of a person, partnership or association shall be included

1 in the total liabilities of the person, partnership or association.

2 (5) Except as otherwise provided in this section, the same security, both in kind and
3 amount, shall be required from stockholders as from nonstockholders.

4 (6) The discount of bills of exchange drawn against actually existing value, and the
5 purchase or discounting of commercial or business paper actually owned by the
6 person negotiating the paper shall not be considered as borrowed money within the
7 meaning of this section in fixing the limit of indebtedness or obligation of any
8 person selling or negotiating the paper to a bank.

9 ➔Section 16. KRS 286.3-290 is amended to read as follows:

10 In the case of obligations to banks and trust companies, the limitations and restrictions of
11 KRS 286.3-280 shall not apply to:

12 (1) Obligations of the United States or of the State of Kentucky;

13 (2) Obligations guaranteed as to principal and interest by the United States or the State
14 of Kentucky; or all obligations to the extent secured or covered by guarantees or by
15 commitments or agreements to take over or to purchase the same made by any
16 federal reserve bank or by the United States or by any department, bureau, board,
17 commission or establishment of the United States, including any corporation wholly
18 owned directly or indirectly by the United States; or consolidated bonds issued by or
19 for federal land banks or consolidated debentures issued by or for federal
20 intermediate credit banks under the Act of Congress known as the "Federal Farm
21 Loan Act," and amendments thereto; or consolidated debentures issued by or for
22 banks for cooperatives under the Act of Congress known as the "Farm Credit Act of
23 1933," and amendments thereto; or obligations issued by the federal home loan
24 banks; or obligations which are insured by the federal housing administrator
25 pursuant to Title 12, Section 12, Section 1713, United States Code, if the
26 debentures to be issued in payment of such insured obligations are guaranteed as to
27 the principal and interest by the United States; or obligations of national mortgage

1 associations; except that the executive director may make, alter and repeal
 2 regulations respecting the total liabilities of any person which:

3 (a) Are secured by direct obligations of the United States or the State of
 4 Kentucky, and

5 (b) Have a face value at least equal to the amount of such liabilities, and

6 (c) Will mature within five (5) years from the date such liabilities were
 7 incurred;[-]

8 (3) Obligations of Kentucky counties and school districts incurred through borrowing
 9 in anticipation of the current year's tax receipts as authorized by KRS 68.320 and
 10 160.540; and

11 **(4) Loans secured by a segregated deposit account in the lending bank if the lending**
 12 **bank has a perfected security interest in the segregated deposit account and if the**
 13 **security interest is clearly documented in the bank's books and records.**

14 ➔Section 17. KRS 286.3-630 is amended to read as follows:

15 (1) Whenever in the opinion of the commissioner and of a majority of the members of
 16 the respective boards of directors of the banks concerned, an emergency exists
 17 warranting an immediate transfer of such assets and liabilities, the board of
 18 directors of any bank, by a majority vote, may transfer the assets and liabilities of
 19 such bank to another bank or banks, without the vote or approval of the
 20 stockholders of each bank which is a party to the proposed transfer.

21 (2) No such transfer shall be made without the consent of the commissioner and each
 22 bank which is a party to such transfer shall file with the commissioner, certified
 23 copies of all proceedings had by its board of directors, with a complete copy of the
 24 agreement entered into by such banks.

25 (3) Notice of a transfer of assets and liabilities made pursuant to the provisions of this
 26 section shall be given to all stockholders~~[by publication pursuant to KRS Chapter~~
 27 ~~424]~~ and a certified copy thereof shall be filed in the office of the commissioner.

1 ➔Section 18. KRS 286.3-915 is amended to read as follows:

2 (1) Notwithstanding any other provision of Subtitle 1, 2, or 3 of KRS Chapter 286:

3 (a) An individual or bank holding company that controls two (2) or more banks
 4 having their principal offices in this Commonwealth may, from time to time,
 5 combine any or all of the commonly controlled banks in this Commonwealth
 6 into and with any one (1) of the banks; and thereafter the surviving bank,
 7 which shall have its principal office in this Commonwealth, shall continue to
 8 operate its principal office and may operate the other authorized offices of the
 9 banks so combined as branches of the surviving bank; and

10 (b) Any combination authorized by this section shall not require the approval of
 11 the executive director of financial institutions, but on or before thirty (30) days
 12 prior to consummation of any combination, the proposed surviving bank shall
 13 notify the executive director of the combination, and on the effective date of
 14 any such combination the charter of any combined bank organized under the
 15 laws of this Commonwealth shall be surrendered.

16 (2) Following any combination authorized by this section:

17 (a) The surviving bank may, subject to the approval of the executive director as
 18 provided in KRS 286.3-180(2), establish and operate additional branches in
 19 any county where any bank involved in the combination had established a
 20 branch or main office;

21 (b) ~~{Any combined bank which is being operated as a branch of the surviving~~
 22 ~~bank shall have a board of directors, a majority of which shall be residents of~~
 23 ~~the combined bank's community, which shall meet not less often than~~
 24 ~~quarterly to advise the branch in a nonfiduciary capacity with respect to the~~
 25 ~~branch's community activities and affairs, customer relations, and local~~
 26 ~~charitable activities;~~

27 (e) ~~—~~The surviving bank shall maintain a record of the deposits in each of its

1 offices resulting from such combination or thereafter established as provided
 2 in paragraph (a) of this subsection; and

3 ~~(c)~~~~(d)~~ With the approval of the executive director, all of a bank's offices in a
 4 county may be transferred, by a purchase and assumption or other transaction,
 5 by the bank to a newly chartered bank having its principal office in the same
 6 county, or to an existing bank.

7 (3) For purposes of this section:

8 (a) The term "combine" or "combination" includes a merger or the acquisition of
 9 all or substantially all of the assets of a bank already controlled by an
 10 individual or bank holding company;

11 (b) An individual or bank holding company "controls" a bank if that individual or
 12 company, directly or indirectly, owns, controls, or has the power to vote at
 13 least eighty percent (80%) of the issued and outstanding voting securities of
 14 the bank;

15 (c) "Combined bank" means any bank participating in a combination authorized
 16 by this section other than the surviving bank;

17 (d) "Surviving bank" means a bank into which a combined bank has been
 18 combined;

19 (e) "Bank" includes a national bank, savings and loan association, and federal
 20 savings bank; and

21 (f) "Individual," "bank holding company," and "deposit" shall have the same
 22 meanings attributed to them in KRS 286.3-900(1).

23 ➔Section 19. KRS 387.111 is amended to read as follows:

24 Guardians, limited guardians, and conservators shall receive reasonable compensation for
 25 services rendered and reimbursement for reasonable and necessary expenses incurred in
 26 the exercise of their assigned duties and powers, including reimbursement for room,
 27 board, and clothing personally provided to the ward **and shall not exceed that provided**

for in Section 20 of this Act. The compensation and reimbursement shall be paid from the estate of the ward.

➔Section 20. KRS 387.760 is amended to read as follows:

(1) No court costs shall be charged to a respondent or ward in any proceeding under KRS 387.500 to 387.770, if the respondent or ward is a poor person as defined in KRS 453.190.

(2) Limited guardians, guardians, limited conservators and conservators are entitled to reasonable compensation for services rendered and to reimbursement for reasonable and necessary expenses incurred in the exercise of their assigned guardianship or conservatorship duties and powers. Such compensation and reimbursement shall be paid from the financial resources of the ward and shall not exceed:

(a) A commission of not more than six percent (6%) of the income collected by the fiduciary, payable at the time the income is collected; and

(b) Either, but not both, of the following, as elected by the fiduciary:

1. An annual commission of three-tenths of one percent (0.3%) of the fair market value of the real and personal property in the care of the fiduciary; or

2. An annual commission of not more than six percent (6%) of the fair market value of the principal distributed by the fiduciary, payable at the time the principal is distributed.

In the absence of an agreement to the contrary, a commission on income shall be paid out of the income of the estate and a commission on principal shall be paid out of the principal of the estate.

(3) Upon submitted proof showing that in the handling of the estate the fiduciary has performed additional and necessary services which have been unusual or extraordinary and not normally incident to the care and management of a similar estate, the court may allow the fiduciary additional compensation as is fair and

1 reasonable for the additional services rendered. ~~[Compensation and~~
 2 ~~reimbursement of limited guardians, guardians, limited conservators, and~~
 3 ~~conservators shall not exceed six percent (6%).]~~

4 ➔Section 21. KRS 286.4-533 is amended to read as follows:

5 Notwithstanding the provisions of KRS 286.4-530(10) or of any other law, in any
 6 extension of credit in accordance with Subtitle 4 of KRS Chapter 286, the licensee may
 7 charge and collect the following:

8 (1) A fee, or premium for insurance, in lieu of perfecting a security interest to the extent
 9 that the fee or premium does not exceed the fee payable to public officials for
 10 perfecting the security interest;

11 (2) A bad check charge of twenty-five dollars (\$25), or the amount passed on from
 12 other financial institutions, whichever is greater, for any check, draft, negotiable
 13 order of withdrawal, or like instrument returned or dishonored for any reason by a
 14 depository institution, which charge licensee may charge and collect, through
 15 regular billing procedures, or otherwise from the borrower;

16 (3) A reasonable attorney's fee, in connection with the collection of a loan, actually
 17 incurred by the licensee and paid to an attorney who is not an employee of the
 18 licensee;

19 (4) A charge for credit investigations of one dollar and fifty cents (\$1.50) for each fifty
 20 dollars (\$50) or fraction thereof of the principal amount of the loan. This charge
 21 shall be permitted only on the first two thousand dollars (\$2,000) of the principal
 22 amount of the loan. No charge shall be collected unless a loan has been made as a
 23 result of the investigation;

24 (5) An alternative to the default charge described in KRS 286.4-530(4), not to exceed
 25 five percent (5%) of each scheduled installment, or fifteen dollars (\$15), whichever
 26 is greater. Only one (1) charge may be collected for each scheduled installment; and

27 (6) Costs or other expenses authorized for a secured party in accordance with KRS

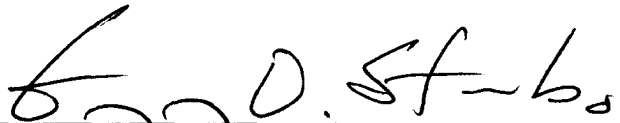
1 355.9-207 and 355.9-607.

2 ➔Section 22. The following KRS section is repealed:

3 286.3-420 Publication of financial statement -- Contents -- Disposition of copies.



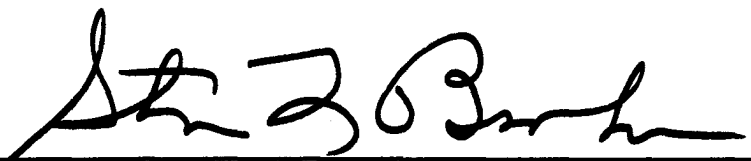
President of Senate



Speaker House of Representatives

Attest: 

Chief Clerk of Senate

Approved 

Governor

Date March 25, 2010